

BOSTON REDEVELOPMENT AUTHORITY

REPORT AND DECISION ON THE APPLICATION OF
COMMERCIAL BUILDING TRUST FOR THE AUTHORIZATION
AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS
GENERAL LAWS (TER. ED.) CHAPTER 121A AS AMENDED,
AND CHAPTER 652 OF THE ACTS OF 1960, TO BE UNDERTAKEN
AND CARRIED OUT BY A TRUST FORMED UNDER M.G.L.
CHAPTER 172, AND APPROVAL TO ACT AS AN URBAN
REDEVELOPMENT CORPORATION UNDER SAID CHAPTER 121A

A. The Hearing. A public hearing was held at 2 p.m. on December 28, 1978, in the offices of the Boston Redevelopment Authority (hereinafter called the "Authority"), at the New City Hall, Room 921, Boston, Massachusetts 02201, by the Authority on an Application, dated October 25, 1978, (hereinafter called the "Application"), filed by Commercial Building Trust, for authorization and a approval of a redevelopment project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960, as amended, (hereinafter called the "Project"), due notice of said hearing having been given previously by publication on December 6, 1978, and December 13, 1978, in the Boston Herald American, a daily newspaper of general circulation published in Boston, and mailing postage prepaid in accordance with Rule 4 of the Rules and Regulations of the Authority for securing approval of Chapter 121A projects, and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960, as amended. Robert L. Farrell, Chairman of the Authority, James G. Colbert,

Joseph J. Walsh, James K. Flaherty and James E. Cofield, Jr., members of the Authority, were present throughout the hearing.

B. The Project. The Project consists of 6,975 square feet of land in the Downtown Waterfront-Faneuil Hall Urban Renewal Area. The Building and improvements thereon are situated at and numbered 126-144 Commercial Street.

A full metes and bounds description is contained in the Application. The Project Site is presently owned by the Authority. The Project consists of the purchase, construction, operation and maintenance by the Applicant of thirty-four (34) apartment units, together with approximately 2,000 square feet of retail and commercial space in the basement and ground floor of the Commercial Block Building, and various ancillary improvements. Of the projected 34 apartment units, twenty-eight (28) will be one-bedroom units and six (6) will be two-bedroom units.

C. Authority Action. In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at hearing, the exhibits offered in evidence at the hearing, arguments and statements made at the hearing, and additional statements submitted subsequent to the hearing.

The Project, as defined in the Application, constitutes a Project within the meaning of Section 1 of Chapter 121A of the General Laws, providing as it does, for the purchase, construction,

operation and maintenance in a blighted, open, decadent or substandard area of a decent, safe and sanitary residential building, commercial and retail space, and appurtenant facilities.

D. Project Area. The Project Area is located in what is defined in the City's Master Plan as the Downtown Waterfront-Faneuil Hall Urban Renewal Area and has been declared by the Authority to be blighted, substandard and decadent as defined in Chapter 121A, detrimental to the safety, health, morals, welfare and sound growth of the community. Fire has severely damaged the rear wall of the building and the granite facades. The roof has collapsed. The decay and disuse of the building and others nereby encourages crime and vandalism. It is unlikely that this building, because of its condition, will be renovated by the normal action of private enterprise. In its present condition the Project Area is physically and financially detrimental to the neighborhood and the City of Boston and renovation of the Commercial Block Building is one of the many urban renewal projects planned for the area to change the character of the area from a blighted, deteriorated and economically obsolete area to an attractive and viable district of residential, office and general business uses supported by recreation and other public facilities.

It is improbable that the conditions causing the present blight and deterioration could be corrected by the ordinary operation of private enterprise and without the aids available under G.L. Chapter 121A, that the real estate taxes be limited to contain

percentages of the project's estimated gross annual income, which percentage levels can only be lawfully agreed to by the City of Boston under G.L. Chapter 121A and Chapter 6A. These conditions and other factors referred to in the Application and this Report and Decision warrant the carrying out of the Project in accordance with Chapter 121A and the proposal constitutes a "project" within the meaning of that statute.

For the reasons it is found that the Project Area is a blighted, decadent, substandard area within the meaning of Chapter 121A as amended. It is unlikely that the conditions will be remedied by the ordinary operations of private or public enterprise.

The Project will provide substantial financial return to the City of Boston. Appendix 5 of the Application sets forth the Agreement to be entered into between the City of Boston and the Applicants. This Agreement provides in substance that there be paid to the City of Boston in lieu of real estate taxes in each of the fifteen (15) calendar years after approval of the Project, an amount over the excise payable under General Laws, Chapter 121A, section 10.

E. Cost of the Project. In the opinion of the Authority, the cost of the Project has been realistically estimated in the Application and the Project is practicable. The estimated minimum cost of the Project, including a purchase price of the Project Area of Forty Six Thousand, Five Hundred Dollars (\$46,500) will be approximately One Million Five Hundred Thousand (\$1,500,000.00) Dollars. The cost

of the Project will be financed by the Applicants and, to the extent deemed desirable, through mortgage financing from institutional or other lender or lenders. The Applicants and any such lenders are the only persons, natural or corporate, who, prior to the completion of the Project have or will have, directly or indirectly, any beneficial interest in the Project.

The Project will be undertaken by a Trust, Commercial Building Trust, dated October 23, 1978. The Application contains the Declaration of Trust, illustrating the trust purposes and structure. The trustees of the Trust are David Barrett and Robert DeGaeta. The beneficiaries of the Trust are David Barrett, Edward H. Linde, and Mortimer B. Zucherman. Experience with similar financing and organizational methods persuades the Authority that the financial program is realistic.

F. Consistency with Master Plan. The Project does not conflict with the Master Plan for the City of Boston.

G. Effect of the Project. The Project will not be in any way detrimental to the best interests of the public or the City or to the public safety or convenience or be inconsistent with the most suitable development of the City. The Project will, in fact, forward the best interests of the City and will constitute a public use and benefit. The structure to be constructed under the Project has been reviewed by the Design Review Staff of the Authority and is subject to further design review should the proposed design change

in any way. The Authority finds that this Project will enhance the general appearance of the Area and furnish attractive and necessary landscaping.

The Project Area does not include land within any location approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

The Trustees agree, for themselves and their successors in interest in title to the property, that there will be no use of the property made involving the sale of any alcoholic beverage.

H. Environmental Considerations. Conformably with the provisions of Section 6 of Chapter 30 of the General Laws (as inserted by Chapter 781 of the Acts of 1972), and the Regulations thereunder as adopted by the Authority on April 11, 1974, the Project must comply with the City of Boston Air Pollution Control Commission's Regulations for the Control of Atmospheric Pollution and Regulations for the Control of Noise during all phases of construction activities.

1. The Project does not adversely affect any recreational areas or any aesthetic values in the surrounding area.
2. No natural or man-made places are affected by the Project.
3. The Project does not adversely affect archeological or historical structures or features. It is expected that the Project will enhance the historic structures in the area.

4. The Project does not affect the potential use, extraction or conservation of a scarce natural resource.
5. The Project Area is urban and therefore does not serve as a habitat for wildlife or fish species.
6. Being urban, the Project has no impact on any wilderness areas.
7. The Project will require deviations from the Zoning Code of the City of Boston as further detailed herein, but not in such manner as will cause damage to the environment.
8. The Project does not require certification, authorization or issuance of a permit by any local, State or Federal environmental control agency.
9. The Project does not involve the disposal of potentially hazardous materials.
10. The Project does not involve the construction of facilities in a flood plain.
11. The Project, except necessarily during the construction phase, does not result in the generation of a significant amount of noise or dust.
12. The Project does not result in a deleterious affect on the quality of any protion of the State's air or water resources.
13. The Project does not affect an area of important scenic value. The Project does affect an area with significant

architectural attributes, but is designed harmoniously with those attributes.

As a result of the investigation and Report of the Authority's staff and of its own knowledge, the Authority hereby determines that the Project will not cause significant environmental damage and that the Secretary of the Authority be instructed to file such with said Executive Office of Environmental Affairs its Report and finding in accordance with the Authority's Rules and Regulations so long as the Project complies with the City of Boston Air Pollution Control Commission's Regulations for the Control of Atmospheric Pollution and Regulations on the Control of Noise during all phases of construction activity.

I. Minimum Standards. The minimum standards for financing, construction, maintenance and improvement of the Project as set forth in Appendix Item #12 filed with and attached to the Application, are hereby adopted and imposed as Rules and Regulations (in addition to those hereinafter adopted and imposed) applicable to this Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960, as amended.

In addition to the minimum standards set forth in Appendix Item #12, the Authority hereby requires that the Applicants, prior to obtaining a building permit, (1) enter into a Regulatory Agreement

with the Authority pursuant to the requirements of General Laws, Chapter 121A, Section 18C and containing such other terms and conditions as the Authority may in its discretion deem necessary and appropriate including the following, "This Project is expressly conditioned upon the owner's representation that no part of the building be used for the sale of alcoholic beverages, beer, or wine".

(2) Submit to the Authority for its review and approval such plans and specifications for the Project as the Authority may require and accept such changes and modifications thereto as the Authority may deem necessary or appropriate; and (3) adhere to such design review controls and requirements as the Authority may in its discretion impose.

The carrying out of the Project will not require a permit for the erection, maintenance and use of a garage within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or private hospital having more than 25 beds, or as a Church.

The Project does not require a declaration that the buildings contemplated constitute a separate building for the purpose of General Laws, Chapter 138.

J. Zoning Code Deviations. Appendix Item #9 filed with and attached to the Application lists the zoning deviations requested. For the reasons set forth in the Application and the evidence presented at the hearing, the Authority hereby finds that the attached zoning deviations, attached hereto and incorporated by reference as Exhibit A, are necessary for the carrying out of the total project and therefore granted without substantially derogating from the intent

and purposes of the applicable laws, codes, ordinances and regulations, respectively.

K. Duration of Period of Tax Exemption. The Applicants do not request any extensions to the base term of 15 calendar years for the Project's period of tax exemption pursuant to applicable provisions of Chapter 121A.

L. Decision. For all of the reasons set forth in the foregoing report, the Authority hereby approves the undertakings by the Applicant of the Project pursuant to Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960.

EXHIBIT A

Statement of Permission Required for Project To Deviate From Zoning and Other Laws

The following is a statement of all permissions which so far as known to the applicants, will be required for the Project, to be constructed in the Project Area, to deviate from zoning laws, codes, ordinances and regulations in effect in the City of Boston. The requested deviations relate, except as otherwise expressly provided, to all portions of the Project Area.

I. ZONING DEVIATIONS

Article 8 Regulation of Use

Permission to rehabilitate a warehouse structure to a multi-family dwelling under use item 7 an allowed use and to allow commercial uses of all or part of the ground floor (under use items 34, 37, 38, 39, 40, 41, 43, 44 or 45) in an H-5-U district, all of which commercial uses are either conditioned or forbidden in an H-5-U district.

Article 11 Signs

Permission to waive regulations with respect to size, kind and location of signs in a residential district, subject to the design review process of the Boston Redevelopment Authority.

Article 17 Open Space Requirements for Residences

Permission to waive requirement for 50 square feet per dwelling unit of usable open space in an H-5-U district.

Article 20 Rear Yards

Permission to waive all requirements for rear yards.

Article 22 Yard Regulations

Permission to waive all yard regulation requirements.

Article 23 Offstreet Parking

Permission to waive all requirements for offstreet parking. Fourteen spaces are required; none are provided.

MEMORANDUM

February 1, 1978

TO: BOSTON REDEVELOPMENT AUTHORITY
FROM: ROBERT J. RYAN, DIRECTOR
SUBJECT: REPORT AND DECISION ON THE CHAPTER 121A
APPLICATION OF COMMERCIAL BUILDING TRUST

On December 28, 1978 the Authority conducted a public hearing with respect to the above-captioned Application. At that meeting the Board heard a presentation by the Applicants.

The Project consists of the acquisition from the Authority of the Project Area at 126-144 Commercial Street and the construction of 34 apartments and 2,000 square feet of commercial space.

The Staff has examined the Application and found that it contained sufficient evidence in support of the Project to permit the Authority to make those findings and determinations necessary to proceed with the approval of the Project.

It is therefore recommended that pursuant to Chapter 121A of the General Laws, the Authority adopt the Report and Decision approving the Project.

An appropriate Vote follows:

VOTED: That the document presented at this meeting entitled "Report and Decision on the Application of Commercial Building Trust for the Authorization and Approval of a Project under Massachusetts General Laws (Ter. Ed.) Chapter 121A as Amended, and Chapter 652 of the Acts of 1960, to be Undertaken and Carried out by a Trust Formed Under M.G.L. Chapter 172, and Approval to Act as an Urban Redevelopment Corporation Under Said Chapter 121A" be and is hereby approved and adopted.

